

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE **RECEIVED**

In re application of

Jeffrey D. Walker

Patent No.:

7,065,300

Issue Date:

June 20, 2006

Application No.:

10/017358

Filed:

December 13, 2001

Conf. No.:

6851

For:

OPTICAL TRANSMITTER INCLUDING A LINEAR
SEMICONDUCTOR OPTICAL AMPLIFIER

Customer No.:

22913

Attorney Docket No.:

15436.247.45.1.1

NOV 17 2010
OFFICE OF PETITIONSArt Unit
2638PETITION TO EXCUSE ERROR IN SMALL ENTITY STATUS
AND PAYMENT OF DEFICIENCY OWED PURSUANT TO 37 CFR § 1.28Commissioner for Patents
PO Box 1450
Alexandria, Virginia 22313-1450

Dear Sir:

The above-identified patent was filed in the United States Patent and Trademark Office on October 6, 2003 with a claim to small entity status. Applicant respectfully submits that the small entity status was established in good faith and that the fees as a small entity were paid in good faith. It was subsequently determined that the status of small entity was lost on or about July 18, 2003. All payments made after July 18, 2003 were made under large entity status; however, the United States Patent & Trademark Office failed to recognize Applicant's Notification of Loss of Entitlement to Small Entity Status filed on May 1, 2006 and applied a refund to maintenance fee payments made by Applicant. Accordingly, applicant hereby petitions that the error in claiming small entity status be excused pursuant to 37 CFR § 1.28(c).

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Set forth below is an itemization of the deficiency payment.

Type of Fee Paid	Date Paid	Current Fee for Non-Small Entity	Large Entity Fee Actually Paid	Refund Applied	Difference
3.5 year maintenance fee	12/21/2009	\$980	\$980	\$490	\$490
Deficiency Owed					\$490

In view of the foregoing, the total deficiency payment owed has been calculated to be \$490. Enclosed herewith please find Form PTO-2038 submitting the required payment of \$490. Applicant has endeavored to determine the deficiency payment with due diligence. If a discrepancy is detected in the calculation of the deficiency payment, the Patent Office is hereby authorized to deduct any further required payment or to apply any overpayment to deposit account no. 23-3178. A duplicate copy of this paper is enclosed.

The Commissioner is hereby authorized to charge payment of any of the following fees that may be applicable to this communication, or credit any overpayment, to Deposit Account No. 23-3178: (1) any filing fees required under 37 CFR § 1.16; (2) any patent application and reexamination processing fees under 37 CFR § 1.17; and/or (3) any post issuance fees under 37 CFR § 1.20. In addition, if any additional extension of time is required, which has not otherwise been requested, please consider this a petition therefor and charge any additional fees that may be required to Deposit Account No. 23-3178.

Finally, pursuant to 37 CFR § 1.28(d), applicant requests that this submission be treated as a notification of loss of entitlement to small entity status.

Dated this 22nd day of October, 2010.

Respectfully submitted,

/Eric L. Maschoff/ Reg. #36596

ERIC L. MASCHOFF
Attorney for Applicant
Registration No. 36,596
Customer No. 022913
Telephone: (801) 533-9800
Fax: (801) 328-1707

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